

EQUAL OPPORTUNITY POLICY



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11th September 2013*

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1.0 Introduction

1.1 The National Empowerment Foundation (NEF) is a non-profit state owned company that was created and incorporated as a Private Company Ltd by both shares and guarantee on the 1st day of July 2008. The objects for which the company was established were:-

- (i) *To enhance employability of those currently unemployed through training and re-skilling including the re-skilling of retrenched/pensioned off workers from Sugar, Textiles and other Sectors.*
- (ii) *To encourage entrepreneurship and improve the capacity and competitiveness of small and medium enterprises.*
- (iii) *To provide support to low-income and vulnerable groups to enable them to take advantage of the opportunities of the economic and social development.*
- (iv) *To enter into agreements with third parties approved by the Board for the execution of such Programmes as shall be entrusted to the Company by the Minister in accordance with its socio economic policy.*
- (v) *To efficiently manage the Funds entrusted to the Company by Government and/or other parties towards the promotion of the objects of the Company.*

1.2 Based on the Section 9 of the Equal Opportunities Act 2008 (*the law*) which requires an employer to draw up and apply an **Equal Opportunity Policy** at his place of work with a view to mirinimising the risk of an employee or prospective employees being discriminated against and in order to promote recruitment, training, selection and employment on the basis of merit. To fulfill its obligations that an employer has towards his employees to ensure that the working conditions are suitable for all employee without any discrimination on the basis of his "Status" irrespective of the sex or sex orientation and to facilitate gainful employment and parenthood for them, the NEF is committed to being an equal opportunity employer and to ensuring that all employees, job applicants, stakeholders, beneficiaries and other people with whom it deals are treated fairly and are not subjected to unfair or unlawful discrimination in light of the resources and circumstances in general. Status has the following reference under the law, by: *age, caste, colour, creed, ethnic origin, and impairment, and marital status, place of origin, political opinion, race, sex, and sexual orientation.*

The policy is to ensure that current and potential staff are offered the same opportunities regardless of age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex and sexual orientation or any other characteristic unrelated to the performance of the job. At the NEF there is no direct or indirect discrimination.

This extends beyond the individual's own characteristics, to cover discrimination by association and by perception. Our aim is to provide not only an effective but also a genuine equal opportunity policy that will help all NEF staff to develop to their full potential, which is clearly in the best interests of both parties.

The Chief Administrator of NEF is responsible for the day-to-day operation of this policy which is available on the website of the NEF www.nef.mu. This policy applies to all employees and prospective employees of the NEF.

2.0 **LEGAL CONSIDERATION**

2.1 The main legislation that covers equal opportunities and discrimination is the Equal Opportunities Act 2008.

2.2 The following are the types of discrimination that has been extracted from the website of the Equal Opportunity Commission: <http://www.gov.mu/portal/sites/EOC>.

- **Discrimination based on the status of the person**
- **Direct discrimination**
- **Indirect discrimination**
- **Discrimination by victimisation**

2.2.1 Discrimination based on status of the person

There are various forms of discrimination and the list could be endless. However, under the EOA 2008, a restrictive list is set out. As such, the alleged discrimination has to be based on the 'status' of the aggrieved person. Status refers to the following under the EOA 2008:

- ▣ Age
- ▣ Caste
- ▣ Colour
- ▣ Creed
- ▣ Ethnic origin
- ▣ Impairment
- ▣ Marital status
- ▣ Place of origin
- ▣ Political opinion
- ▣ Race
- ▣ Sex
- ▣ Sexual orientation

The scope of the term 'status' is therefore limited to the above.

Sex Discrimination

A discriminator is deemed to discriminate on the ground of sex where he acts as he does because of the pregnancy, family responsibility or potential pregnancy of the aggrieved person or because of a characteristic of the aggrieved person that generally appertains, or is imputed, to a person who is pregnant, has family responsibility or is potentially pregnant.

2.2.2 Direct discrimination

The following criteria have to be satisfied for a finding of direct discrimination:

The discrimination should be based on the status of the aggrieved person or a characteristic that generally appertains or is imputed to persons of the status of the aggrieved person; and

The discriminator treats or proposes to treat the aggrieved person less favourably than he treats or would treat a person of a different status in the same or similar circumstances.

2.2.3 Indirect Discrimination

The following criteria have to be satisfied for a finding of indirect discrimination:

- The discrimination has to be based on the status of the person;*
- The discriminator imposes, or proposes to impose, a condition, requirement or practice on the aggrieved person;*
- The condition, requirement or practice is not justifiable in the circumstances; and*
- The condition, requirement or practice has, or is likely to have, the effect of disadvantaging the aggrieved person when compared to other persons of the same status.*

It is up to the discriminator to prove that a condition, requirement or practice is justifiable in the circumstances.

The determination as to whether a condition, requirement or practice is justifiable in the circumstances would depend on the following:

- What is the nature and extent of the disadvantage resulting, or likely to result, from the imposition or proposed imposition of the condition, requirement or practice?*
- What is the likelihood of overcoming or mitigating the disadvantage?*
- Is the disadvantage proportionate to the result sought to be achieved by the discriminator?*

2.2.4 Discrimination by victimisation

There would be discrimination by victimisation where the discriminator subjects or threatens to subject an employee to any sort of detriment or gives him/her a less favourable treatment or threatens to do so because the said employee has complained, raised any issue of discrimination, agreed to stand as witness on such issue of equal opportunity or threatened to act in the manner aforesaid. It is to be noted that any complainant cannot invoke discrimination by victimisation, if the allegation made in the initial complaint was false and not in good faith.

2.3 On all occasions where those in control of employees are required to make judgments between them, for example disciplinary matters, selection for training, promotion, pay increases, awards etc, it is essential that qualification merit, experience, skills and temperament are considered as objectively as possible.

3.0 **NEF'S COMMITMENT TO THE PRINCIPLE OF EQUALITY**

The NEF is committed to building an organisation that makes full use of the talents, skills, experience, competence, desire and willingness to work and different cultural perspectives available in a multi-racial, multi-ethnic, multi-cultural and multi-lingual society, and where people feel they are respected and valued, and can achieve their potential regardless of their status, that is, their age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation.

The NEF will follow the recommendations of the Equal Opportunities Commission as set forth in its Guidelines on Application of an Equal Opportunity Policy at Work in all its employment policies, procedures and practices.

The aims of this policy are to ensure that:

- no one receives less favourable treatment, by reason of his or her age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation, or is disadvantaged by any conditions, requirements, provisions, criteria, procedures or practices that cannot be justified on any or more of the above-mentioned grounds, or victimised for taking action against the employer for discrimination or for assisting a fellow employee in taking such an action;

- opportunities for employment, training and promotion are open to all candidates irrespective of their status, that is, their age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation; and
- selection for employment, promotion, transfer and training, and access to benefits, facilities and services, will be fair and equitable, and based solely on merit and not on the status of the employees or prospective employees, that is, age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation.

4.0 IMPLEMENTATION, MONITORING AND REVIEW OF THIS POLICY

The Chief Administrator of the NEF has overall responsibility for implementing and monitoring this policy, which will be reviewed on a regular basis following its implementation and may be changed from time to time. Relevant data will be collected to support this policy. Personal details provided by employees or job applicants for the purposes of equal opportunity monitoring are confidential and will be kept apart from all other records and not used for any other purpose. Immediate supervisors of the NEF also have a crucial role to play in promoting equality of opportunity in their own areas of responsibility.

All staff, irrespective of their job or seniority, will be given guidance and instruction, through induction and other training, as to their responsibility and role in promoting equality of opportunity and not discriminating unfairly or harassing colleagues or job applicants, nor encouraging others to do so nor tolerating such behaviour. Disciplinary action, including dismissal, may be taken against any employee found guilty of unfair discrimination or harassment.

The NEF commits itself to undertake a formal review of the Policy at least once a year and to communicate changes to every single employee and stakeholder of the NEF, following the Board of Directors approval.

5.0 **APPLICATION OF POLICY TO NEF PROCEDURES AND PRACTICE**

5.1 **Recruitment and Selection**

- 5.1.1 We aim, through written instruction, appropriate training and supervision, to ensure that all staff who are responsible for recruitment and selection are familiar with this policy and apply it in conjunction with our internal recruitment policy.
- 5.1.2 Selection will be conducted on an objective basis and will focus on the applicants' suitability for the job and ability to fulfil the job requirements. Our interest is in the skills, abilities, qualifications, aptitude and the potential of individuals to do their jobs.
- 5.1.3 Person specifications will be reviewed to ensure that criteria are not applied which are discriminatory, either directly or indirectly, and that they do not impose any condition or requirement which cannot be justified by the demands of the post. Questions asked of candidates will relate to information that will help assess their ability to do the job. Questions about marriage plans or family intentions or any other issues which may give rise to suspicions of unlawful discrimination should not be asked. Selection tests will be specifically related to the job and measure an individual's actual, or inherent, ability to do or train for the job.
- 5.1.4 Job adverts should encourage applications from all types of candidates and should not be stereotyped. All adverts should state: "**The NEF is an equal opportunity employer and values diversity**". When advertising a position which has traditionally been done by one sex, adverts should specify they are open to both sexes.

5.2 **Training and Development**

- 5.2.1 The NEF recognises that equal opportunity responsibilities do not end at selection and is committed to ensure that wherever possible all staff receive the widest possible range of development opportunities for advancement.
- 5.2.2 All employees will be encouraged to discuss their career prospects and training needs with their manager. Opportunities for promotion and training will be communicated and made available to all staff on a fair and equal basis without any discrimination whatsoever.

5.2.3 The provision of training will be reviewed to ensure that provisions are made where necessary to enable those returning to work following a break to benefit from training. No age limit applies for entry to training or development schemes which are funded by donor agencies. In fact there should not be any discrimination and equal opportunity should prevail.

5.3 Performance Assessment

Our Equal Opportunity Policy applies to the performance management process. When evaluating and reporting on performance, managers should base their assessments solely on evidence, not on assumptions about staff (e.g. women's mobility or length of future service, the suitability of staff of particular ethnic origins to undertake specific jobs) and stereotypes. The NEF has always made use of a Performance Appraisal Form and its use explained widely to all staff. The Performance Appraisal Reports are normally used for (i) corrective actions with regard to any deviations that may have happened regarding the overall objectives of the organisation, (ii) renewal of contract and (iii) payment of gratuity at the end of each twelve months satisfactory service.

5.4 Discipline

5.4.1 When dealing with general disciplinary matters, care is to be taken that employees who have, are perceived to have, or are associated with someone who has a protected characteristic are not dismissed or disciplined for performance or behaviour which could be overlooked or condoned in other employees. Every employee should be treated equally.

5.4.2 If a member of staff unjustifiably discriminates against another person or fails to co-operate with the measures that are designed to promote equality of opportunity in the context of the work of the NEF, or induces others to do so, he will be subject to disciplinary action.

5.4.3 The NEF opposes any conduct or activity by any individual it employs which is contrary to its Equal Opportunity Policy or which is likely to bring it into disrepute in relation to equal opportunity issues.

5.5 Grievance

5.5.1 Staff who believe they have been discriminated against and have not been able to resolve this informally are advised to use the NEF's internal grievance procedure. An employee who brings a complaint of discrimination must not be less favourably treated.

5.5.2 Harassment or bullying will not be tolerated, and any individual employee who feels that he/she has been subjected to harassment or bullying should refer the matter to the Chief Administrator through his/her immediate supervisor. Equally, any employee who witnesses incidents of harassment or bullying should report this to his/her manager or an appropriate senior member of staff.

5.5.3 Staff must not be intimidated, discriminated against or treated differently for raising a concern, complaining or assisting in an investigation. If this happens it could amount to victimisation which is unlawful within the terms of the relevant legislation.

5.6 **Terms and Conditions of Work**

5.6.1 **Contracts of employment**

We will ensure that all of the policies of the NEF, including compensation, benefits and any other relevant issues associated with contracts of employment are formulated and applied without regard to age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation and any other characteristic unrelated to the performance of the job. Additionally, these will be reviewed regularly to ensure that there is no discrimination.

5.6.2 **Personnel policies & procedures**

Our personnel policies and procedures will be reviewed regularly to improve, amend or adapt current practices to promote equality of opportunity within the NEF.

5.6.3 **Communication of this policy**

A copy of the Equal Opportunity Policy is made accessible to all employees via NEF website and electronic system of shared folder. All staff, including newly appointed ones must be made aware of this Policy and the responsibilities of both the NEF and the individual in achieving equal opportunity objectives. In addition, the Policy, in keeping with our mainstreaming endeavours, must be referred to as appropriate, including in relevant training courses, guidance notes and manuals, throughout the procurement process and as part of operational work.

6.0 Conclusion

- 6.1 This policy mainly applies to all aspects of employment, from recruitment to termination of employment. It is also applicable to our stakeholders and other people with whom we deal.
- 6.2 We will take the following steps to put the policy into practice and implement it:
- 6.2.1 The policy will be a priority for the NEF.
- 6.2.2 Staff will be consulted regularly about the policy, and about related action plans and strategies.
- 6.2.3 All staff will be trained on the policy; on their rights and responsibilities under the policy, and on how the policy will affect the way they carry out their duties and also what constitutes acceptable and unacceptable conduct in the organisation.
- 6.2.4 Complaints about discrimination in the course of employment will be regarded seriously, and may result in disciplinary sanctions, and even dismissal.
- 6.2.5 Opportunities for employment, promotion, transfer and training will be advertised widely, internally and externally, and, save where a genuine occupational requirement or statutory exception applies, all applicants will be welcomed, irrespective of their status, that is, their age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation.
- 6.2.6 All staff will be encouraged to develop their skills and qualifications, and to take advantage of promotion and development opportunities in the organisation.
- 6.2.7 Selection criteria will be entirely related to the job or training opportunity.
- 6.2.8 Grievances, disciplinary action, performance assessment, and terminations of employment, for whatever reason, will also be monitored.
- 6.2.9 Requirements, conditions, provisions, criteria and practices will be reviewed regularly, in the light of the monitoring results, and revised, if they are found to, or might, discriminate.

Responsibility for this policy

This policy has been endorsed by the Board of Directors of the NEF and the Chief Administrator is fully responsible for the day to day operation of the policy.

The policy was approved on 11/09/13, following consultation with Managers and staff.

Overall responsibility for the effectiveness of this policy lies with Mr. Yogandranath ANTOO, Chief Administrator of the NEF.



Signature

02 October 2013
Date

Chief Administrator

All staff are responsible for familiarising themselves with this policy. Managers must also make sure that, staff working under their supervision, know about, and follow, the policy.

National Empowerment Foundation: <http://www.nef.mu>